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Family reunification of refugees and migrants in the Council of Europe member States

Reply to Recommendation[1]: Recommendation 2141 (2018)
Committee of Ministers

1. The Committee of Ministers has carefully considered Recommendation 2141 (2018) of the Parliamentary Assembly on "Family reunification of refugees and migrants in the Council of Europe member States" and Resolution 2243 (2018) related thereto. It invites member States to give due consideration, as appropriate, to the individual recommendations set out in paragraph 1.

2. With regard to the more general theme of family reunification of refugees and migrants, the Committee of Ministers underlines the necessity to protect the right to respect for family life as recognised by Article 8 of the European Convention on Human Rights and the relevant case-law of the Court. It would also recall Article 19(6) of the European Social Charter which requires Contracting States to facilitate the family reunion of migrant workers who legally reside in the country, and the relevant conclusions of the European Committee of Social Rights,[2] specifying that this provision also applies to refugees. The Committee of Ministers would also draw attention to several of its recommendations in which family reunification of refugees and migrants have been addressed.[3]

3. With reference to the specific recommendation outlined in para 1.1 of the Recommendation, the Committee of Ministers considers the work of the Special Representative of the Secretary General for Migration and Refugees highly relevant in this regard. This work includes the drafting of a handbook on the standards and good practices for restoring family links and family reunification. The handbook is aimed at professional practice across a wide cross-section of stakeholders working with children. Complementing the HELP course on refugee and migrant children, the handbook has the purpose to improve the professionals' capacity in processing family reunification claims and should therefore serve as an important tool for member States in effectively implementing the right to family reunification, as appropriate.

4. The Committee of Ministers would also refer to an issue paper prepared by the Commissioner for Human Rights in 2017 which comprehensively addressed the issue of family reunification of refugees in Europe[4] as a pressing human rights issue. In the paper, the Commissioner for Human Rights calls on all Council of Europe member States to uphold their human rights obligations and ensure the practical

1. Adopted at the 1342nd meeting of the Ministers' Deputies (27 March 2019).
2. See a summary of the ECSR Conclusions, including on article 19(6) in the Activity Report 2015 of the European Committee of Social Rights.
3. Recommendation CM/Rec (2007)9 on life projects for unaccompanied migrant minors, in which member States are encouraged (cf. paragraphs 18 and 24) to seek the parents/guardians of unaccompanied minors, to establish contact to facilitate possible family reunification and/or to expedite departure to a third country to join family members;
Recommendation No. R(99)23 on family reunion for refugees and other persons in need of international protection;
Recommendation (2002)4 on the legal status of persons admitted for family reunification.
4. Issue paper by the Council of Europe Commissioner for Human Rights, "Realising the right to family reunification of refugees in Europe", 2017, available at: https://rm.coe.int/prems-052917-gbr-1700-realising-refugees-160x240-web/1680724ba0.

effectiveness of the right to family reunification for refugees and other beneficiaries of international protection. This issue paper contains 36 recommendations to assist states in (re-)examining their laws, policies and practices relating to family reunification for refugees.

5. As regards the issue of human trafficking emphasised in the Assembly Recommendation 2141(2018), the Committee of Ministers notes that the Council of Europe Convention on Action against Trafficking in Human Beings specifies the additional measures of protection and prevention required to ensure that the rights of child victims of trafficking are effectively protected by States. Article 10, paragraph 4 of the Convention provides that as soon as an unaccompanied child is identified as a victim, each Party shall: (a) provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child; (b) take the necessary steps to establish his/her identity and nationality; (c) make every effort to locate his/her family when this is in the best interests of the child. The Committee would highlight the on-going work of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the field which has stressed the importance of family reunification as a protective measure for unaccompanied and separated children and a way to prevent disappearances in several of its country evaluation reports. In recent years GRETA has prioritised and outlined targeted prevention measures against the human trafficking of unaccompanied or separated minors and irregular migrant children.

6. Finally, the Committee of Ministers strongly supports the work of the International Red Cross and Red Cross and Red Crescent societies and encourages member States to co-operate, as appropriate, with those bodies in their action for finding missing family members of refugees.